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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
TECKLU, ISAAC TUKU

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2192	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

	Application No.	Applicant(s)
	10/772,682	GRAHAM ET AL.
Office Action Summary	Examiner	Art Unit	
	ISAAC T. TECKLU	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05 February 2004</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-42</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-42</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>05 February 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>02/05/04</u>.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-42 have been examined.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or

composition of matter, or any new and useful improvement thereof, may obtain a patent

therefor, subject to the conditions and requirements of this title.

Claims 1, 3-4, 7-11 and 13-16, 31 and 39 and 42 are rejected under 35 U.S.C 101 because

the claimed invention is directed to non-statutory subject matter.

Specifically, claims 1, 11 and 39 recite a system comprising a build logic configured to

read one or more building blocks from software data store. From the specification (page 5,

paragraph [0021], lines 25-33), this recited logic is a software; and the claim lacks teaching to

enable one skill in the art to reasonably construe that a hardware or tangible device is supporting

the functionality of the software entities thus claimed. Further, there is no explicit and deliberate

definition therein by which the 'system' as recited can only be construed as one meaning, e.g.

that is actually defined a computer. As a whole, the claim amounts to reciting software entities

with lack of further information whatsoever about any hardware beside the claimed 'system'.

Thus broadest interpretation has been used, and system amounts to first and second units as

recited. Therefore, the system comprising solely software entities without any such tangible

support or hardware/executing engine to carry the functionality of these software entities, is not reasonably perceived as able to yield a tangible result. Because software instructions without physical storage and computer hardware execution engine in conjunction with that storage would not be perceived as being able to carry out any functionality. The claim hence fails to fulfill the Practical Application Test as set forth above; and is rejected for leading to non-statutory subject matter.

Claims 3-4, 7-10 and 13-16 are rejected for also failing to provide a hardware-based or tangible embodiment that would support the functionality of the recited elements of the base claim.

Claims 31 and 41 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter

Claim 31, 41 and 42 recite "A computer readable medium" defined to include carrier wave/pulse (specification page 5, lines 15-20). Thus, under the Interim Guidelines such media do not fall within one of the four statutory classes of 35 U.S.C. 101 (See Annex IV). Therefore, the above claims are non-statutory.

A computer-readable media is a tangible physical article or object, some form of matter, which a signal (infrared)/carrier wave is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal/carrier wave, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal/carrier wave does not fall within one of the four statutory classes of Sec. 101. See Annex IV (c) Electro-Magnetic Signals, Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (signed

October 26, 2005) – OG Cite: 1300 OG 142. Online version can be retrieved at

<http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>

Under the principles of compact prosecution, claims 31 and 41 have been examined as

the Examiner anticipates the claims will be amended to obviate these 35 USC 101 issues. For

example, A computer recordable-type medium…-

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign
country or in public use or on sale in this country, more than one year prior to the date of
application for patent in the United States.

Claims 1-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kroening et al.

(US 6,080,207).

Per claim 1, Kroening discloses a system, comprising:

a data store configured to store a building block from which a restore distribution can be

built, and a build information concerning the building block (e.g. FIG. 1, element 30 and related

text – Note; image/software is created by the image builder 20 by retrieving the information

from storage device 30 of FIG. 1); and

a build logic operably connectable to the data store (e.g. FIG. 1, "IMAGE BUILDER"

and related text), the build logic being configured to selectively read the build information and,

in response to analyzing the build information, to selectively read a building block, and to create

the restore distribution from one or more building blocks based, at least in part, on the build

information (e.g. FIG. 2, steps 204-224 – Note: the Image Builder starts with the top record and

analyzes configuration identification), where the restore distribution is configured to

automatically produce a software image on a target platform (col.8:20-30 "… image build

delivery process …") and the restore distribution includes computer executable instructions for

producing the software image from the restore distribution (col. 3:45-55 multiple software

configuration with a set of changes to produce the desired software…" and e.g. FIG. 1, DISK

DUPPER 52 and related text).

Per claim 2, Kroening discloses the system of claim 1, including a media creator

configured to store the restore distribution on a computer-readable medium (col. 6:40-50

"…disk dupper 52 … disk image on a computer readable medium …"), and where the build

logic is further configured to control the media creator to store the restore distribution on the

computer-readable medium (e.g. FIG. 1, DISK DUPPER 52 and related text).

Per claim 3, Kroening discloses the system of claim 1, where a building block comprises

one or more of, a file, a program, an application, an object, a dynamic link library, a data

structure definition, a data structure, a file system definition (col. 1:45-55 "… file server which

requires …"), a file system, an applet, a servlet, a subroutine, a database record, and a database

(col. 7:50-55 "... program code ..." and col. 8:15-25 "... files corresponding to the operating

system ..." and col. 8:1-25 "... mail files and underlying identification ... dynamic files ...

desired application EDF files ..." and e.g. FIG. 1, IMAGE SERVER and related text).

Per claim 4, Kroening discloses the system of claim 1, where the build information

includes one or more of, a rule, a heuristic, a program, a build list, a build definition, a

dependency, and an executable (col. 9: 15-30 "... instructions executed ... for receiving a

desired software configuration ... surveying ... comparing ... generating ..." and e.g. FIG. 3

and related text).

Per claim 5, Kroening discloses the system of claim 2, the media creator being configured

to store the restore distribution on one or more of, a compact disc (CD), a digital versatile disk

(DVD), a tape, a floppy disk, a Zip disk, an application specific integrated circuit, a memory

stick, a memory, and a USB token (col. 7:45-50 "... floppy disk, CD, zip drive ...").

Per claim 6, Kroening discloses the system of claim 2, where the media creator comprises

a CD burner (e.g. FIG. 1, element 20 and related text).

Per claim 7, Kroening discloses the system of claim 1, where the restore distribution

includes a content element derived from a building block (e.g. FIG. 2, steps 204-224 – Note: the

Image Builder starts with the top record and analyzes configuration identification), where

deriving the content element from the building block includes one or more of, copying,

compiling, interpreting, assembling, and translating the building block (col. 4:1-10 "…

duplicating the image on a computer …" and e.g. FIG. 4, 380 and related text).

Per claim 8, Kroening discloses the system of claim 7, where the content element

comprises one or more of, a file, a program, an application, an object, a dynamic link library, a

data structure definition, a data structure, a file system definition (col. 1:45-55 "… file server

which requires …"), a file system, an applet, a servlet, a subroutine, a database record, and a

database (col. 7:50-55 "… program code …" and e.g. FIG. 1, IMAGE SERVER and related

text).

Per claim 9, Kroening discloses the system of claim 8, where the restore distribution

includes one or more of, a rule for combining one or more content elements (col. 2:1-15 "…

baseline is identified … image builder performs comparison to create a set of changes that can

be combined …"), a program for installing one or more content elements, a program for

combining one or more content elements, and computer executable instructions configured to

analyze the target platform on which the software image will be built from the restore

distribution (col. 3:15-20 "… installing software …" and col. 8:1-10 "… adding delta images to

the previously delivered image …").

Per claim 10, Kroening discloses the system of claim 1, where the build logic is further

configured to store, in the data store, information concerning one or more of, a restore

distribution build (col. 1:45-55 "… file server which requires …"), and a software image build

(e.g. FIG. 1, element 30 and related text – Note; image/software is created by the image builder

20 by retrieving the information from storage device 30 of FIG. 1).

Per claim 11, Kroening discloses a system, comprising: a software data store configured

to store a building block that may be included in a restore distribution;

an attribute data store configured to store an attribute related to a building block stored in

the software data store (e.g. FIG. 1, element 30 and related text – Note; image/software is

created by the image builder 20 by retrieving the information from storage device 30 of FIG. 1);

a rules data store configured to store a rule that facilitates controlling one or more of,

including a building block in a restore distribution (col. 2:1-15 "… baseline is identified …

image builder performs comparison to create a set of changes that can be combined …"),

processing a building block at restore distribution build time, and processing a building block at

restore time (e.g. FIG. 1, "IMAGE BUILDER" and related text);

a constraint data store configured to store a constraint that facilitates establishing a scope

of the restore distribution (e.g. FIG. 1, element 56 and related text); and

a build logic configured to read one or more building blocks from the software data store,

to read one or more attributes from the attribute data store, to read one or more rules from the

rules data store, to read one or more constraints from the constraint data store (col. 2:1-15 "…

baseline is identified … image builder performs comparison to create a set of changes that can

be combined …"), and to build a restore distribution that includes one or more of, a building

block, and a rule, where the build logic may be controlled, at least in part, by a rule and a

constraint (col. 3: multiple software configuration with a set of changes to produce the desired

software..." and e.g. FIG. 1, DISK DUPPER 52 and related text),

where the restore distribution also includes computer executable instructions related to

producing, from the restore distribution, a software image on a target platform (col. 7:50-55 "...

program code ...").

Per claim 12, Kroening discloses the system of claim 11, including a media creator

configured to store the restore distribution on a computer-readable medium (col. 7:45-50 "...

floppy disk, CD, zip drive ...").

Per claim 13, Kroening discloses the system of claim 11, where a building block

comprises one or more of, a file, a program, an application, an object, a dynamic link library, a

data structure definition, a data structure (col. 1:45-55 "... file server which requires ..."), a file

system definition, a file system, an applet, a servlet, a subroutine, a database record, and a

database (col. 7:50-55 "... program code ..." and col. 8:15-25 "... files corresponding to the

operating system ..." and e.g. FIG. 1, IMAGE SERVER and related text).

Per claim 14, Kroening discloses the system of claim 11, where an attribute is configured

to store information concerning one or more of, an operating system associated with a building

block, an operating system version associated with a building block (col.4:30-45 "... an

operating system ..."), a spoken language associated with a building block, a computer

language associated with a building block (col. 7:45-60 "... operating system and application's

program code ...") a geographic region in which a building block may function(col. 7:50-55

"... program code ..." and e.g. FIG. 1, IMAGE SERVER and related text), a device identifier

for a device with which a building block may function, a release data associated with a building

block, an architecture with which a building block may function, a build list, an interaction

between two or more building blocks, a desired interaction between two or more building

blocks, and a dependency between two or more building blocks (col. 8:15-25 "... files

corresponding to the operating system ...").

     Per claim 15, Kroening discloses the system of claim 11, where a rule describes one or

more of, how a building block is to be selected for inclusion in a restore distribution, how to

combine two or more building blocks , how to connect two or more building blocks (col. 2:1-15

"... baseline is identified ... image builder performs comparison to create a set of changes that

can be combined ..."), when a building block is to be processed at restore distribution build

time, how a building block is to be processed at restore distribution build time, when a building

block is to be processed at restore time, and how a building block is to be processed at restore

time (col.8: 45-50 "... configurations and selecting a base line software ...").

     Per claim 16, Kroening discloses the system of claim 11, where a constraint describes one

or more of, how to limit a scope of a restore distribution, and when to exclude a building block

from a restore distribution (col. 2:20-30 "... include receiving desired software ...").

     Per claim 17, Kroening discloses the system of claim 11, the media creator being

configured to store the restore distribution on one or more of, a compact disc (CD), a digital

versatile disk (DVD), a tape, a floppy disk, a Zip disk, an application specific integrated circuit,

a memory stick, a memory, and a Universal Serial Bus (USB) token (col. 7:45-50 "… floppy

disk, CD, zip drive …").

Per claim 18, Kroening discloses the system of claim 11, where the media creator

comprises a CD burner (e.g. FIG. 1, element 20 and related text).

Per claim 19, Kroening discloses the system of claim 11, the media creator being

configured to send a signal to the build logic that storing a restore distribution on a computer-

readable medium has completed (col. 7:25-35 "… ready for delivery and notifies an operator of

the computerized network … image is ready …" and e.g. FIG. 2, step 222 and related text).

Per claim 20, Kroening discloses the system of claim 19, including a tracking data store,

and where the build logic is configured to store in the tracking data store (col. 2:1-15 "…

baseline is identified … image builder performs comparison to create a set of changes that can

be combined …"), upon receiving the signal, a status data concerning the restore distribution

(col. 6:20-35 "… once the image builder defines an image and assigns a corresponding

configuration number … images are stored …" and e.g. FIG. 2, 200 and steps 212-220 and

related text).

Per claim 21, Kroening discloses a method, comprising:

acquiring a building block that may be included in a restore distribution (e.g. FIG. 1,

element 30 and related text – Note; image/software is created by the image builder 20 by

retrieving the information from storage device 30 of FIG. 1);

acquiring an attribute concerning the building block, and relating the attribute to the

building block (e.g. FIG. 2, step 212 and related text);

acquiring a rule concerning one or more of, when to include a building block in a restore

distribution (col. 2:1-15 "… baseline is identified … image builder performs comparison to

create a set of changes that can be combined …"), how to process a building block at restore

distribution build time, and how to process a building block at restore time (col.8: 45-50 "…

configurations and selecting a base line software …");

acquiring a constraint concerning one or more of, how to limit a scope of a restore

distribution, and when to exclude a building block from a restore distribution (col. 2:20-30 "…

include receiving desired software …"); and

building a restore distribution superset from one or more of, the building block, the

attribute, the rule, and the constraint, where a restore distribution can be built from a subset of

the elements of the restore distribution superset (col. 3: multiple software configuration with a

set of changes to produce the desired software…" and e.g. FIG. 1, DISK DUPPER 52 and

related text).

Per claim 22, Kroening discloses the method of claim 21, including storing the building

block in a building block data store (e.g. FIG. 1, element 30 and related text – Note;

image/software is created by the image builder 20 by retrieving the information from storage

device 30 of FIG. 1).

Per claim 23, Kroening discloses the method of claim 22, including storing the attribute

in an attribute data store (col. 1:45-55 "… file server which requires …" and e.g. FIG. 2, step

212 and related text).

Per claim 24, Kroening discloses the method of claim 23, including storing the rule in a

rules data store (e.g. FIG. 1, element 30 and related text – Note; image/software is created by

the image builder 20 by retrieving the information from storage device 30 of FIG. 1).

Per claim 25, Kroening discloses the method of claim 24, including storing the constraint

in a constraint data store (col. 1:45-55 "… file server which requires …" and e.g. FIG. 1,

element 56 and related text).

Per claim 26, Kroening disclose the method of claim 25, where the restore distribution

superset is stored in a database (e.g. FIG. 2, steps 204-224 – Note: the Image Builder starts with

the top record and analyzes configuration identification and e.g. FIG. 1, element 56 and related

text).

Per claim 27, Kroening discloses the method of claim 21, where a building block

comprises one or more of, a file (col. 1:45-55 "… file server which requires …"), a program, an

application, an object, a dynamic link library, a data structure definition, a data structure, a file

system definition, a file system (col. 1:45-55 "… file server which requires …"), an applet, a

servlet, a subroutine, a database record, and a database (col. 7:50-55 "… program code …" and

e.g. FIG. 1, IMAGE SERVER and related text).

Per claim 28, Kroening discloses the method of claim 21, where an attribute is configured

to store information concerning one or more of, an operating system associated with a building

block, an operating system version associated with a building block (col. 7:45-60 "… operating

system and application's program code …"), a spoken language associated with a building

block, a computer language associated with a building block, a geographic region in which a

building block may function (col. 7:50-55 "… program code …" and e.g. FIG. 1, IMAGE

SERVER and related text), a device identifier for a device with which a building block may

function, a release data associated with a building block, an architecture with which a building

block may function, a build list, an interaction between two or more building blocks, a desired

interaction between two or more building blocks, and a dependency between two or more

building blocks (col. 8:15-25 "… files corresponding to the operating system …" and e.g. FIG.

3 and related text).

Per claim 29, Kroening discloses the method of claim 21, where a rule describes one or

more of, how a building block is to be selected for inclusion in a restore distribution, how to

combine two or more building blocks (col. 2:1-15 "… baseline is identified … image builder

performs comparison to create a set of changes that can be combined …"), how to connect two

or more building blocks (col. 4:5-30 "... step in the disk image delivery ... entering a customer's order ... including BIOS and CMOS settings ... information is used by the image builder to create ..." and e.g. FIG. 2, 200 and steps 212-220 and related text), when building blocks are to be processed at restore distribution build time, how building blocks are to be processed at restore distribution build time, when building blocks are to be processed at restore time, and how building blocks are to be processed at restore time (col.8: 45-50 "... configurations and selecting a base line software ...").

Per claim 30, Kroening disclose the method of claim 21, where a constraint describes one or more of, how to limit the scope of a restore distribution, and when to exclude a building block from a restore distribution (col. 2:1-15 "... baseline is identified ... image builder performs comparison to create a set of changes that can be combined ..." and e.g. FIG. 2, 200 and steps 212-220 and related text).

Per claim 31, Kroening discloses a computer-readable medium storing computer executable instructions operable to perform a method, the method comprising:

acquiring a building block that may be included in a restore distribution and storing the building block in a building block data store (col.8: 45-50 "... configurations and selecting a base line software ..."), the building block comprising one or more of, a file (col. 1:45-55 "... file server which requires ..."), a program, an application, an object, a dynamic link library, a data structure definition, a data structure, a file system definition, a file system, an applet, a servlet, a subroutine, a database record, and a database (e.g. FIG. 2, step 212 and related text);

acquiring an attribute concerning the building block, relating the attribute to the building

block, and storing the attribute in an attribute data store (e.g. FIG. 2, steps 204-224 – Note: the

Image Builder starts with the top record and analyzes configuration identification and e.g. FIG.

2, step 212 and related text);

acquiring a rule concerning one or more of, when to include a building block in a restore

distribution, how to process a building block at restore distribution build time, and how to

process a building block at restore time (col. 2:1-15 "… baseline is identified … image builder

performs comparison to create a set of changes that can be combined …"), and storing the rule

in a rules data store (col.8: 45-50 "… configurations and selecting a base line software …");

acquiring a constraint concerning one or more of, how to limit a scope of a restore

distribution, and when to exclude a building block from a restore distribution, and storing the

constraint in a constraint data store (col. 2:20-30 "… include receiving desired software …");

and

building a restore distribution superset from one or more of, the building block, the

attribute, the rule, and the constraint, where a restore distribution can be built from a subset of

the elements of the restore distribution superset, and where the restore distribution superset is

stored in a database (col. 3: multiple software configuration with a set of changes to produce the

desired software…" and e.g. FIG. 1, IMAGE BUILDER 20 and DISK DUPPER 52 and related

text).

Per claim 32, Kroening discloses a method, comprising:

accessing a superset of restore distribution elements (col. 2:20-30 "... include receiving desired software ..." and e.g. FIG. 1, element 30 and related text);

determining a desired coverage for a restore distribution to be built from one or more restore distribution elements (col. 9: 15-30 "... instructions executed ... for receiving a desired software configuration ... surveying ... comparing ... generating ..." and e.g. FIG. 3 and related text and e.g. FIG. 2, steps 212-224 and related text);

selectively reading, from the superset, a building block, where the reading is controlled, at least in part, by the desired coverage (e.g. FIG. 2, step 204 and related text);

reading, from the superset, an attribute concerning the building block; reading, from the superset, a rule concerning one or more of, how to process the building block into the restore distribution, and how to process the building block at restore time (e.g. FIG. 3 and 4 and related text);

acquiring a constraint concerning how the building block is to be limited in a software image built on a target platform from the restore distribution (col.8: 45-50 "... configurations and selecting a base line software ...");

building a restore distribution comprising one or more building blocks and one or more computer executable instructions, where the software image can be built on the target platform from the restore distribution (col. 3: multiple software configuration with a set of changes to produce the desired software..." and e.g. FIG. 1, DISK DUPPER 52 and related text); and

controlling a media creator to store the restore distribution on a computer-readable medium (col. 7:45-50 "... floppy disk, CD, zip drive ...").

Per claim 33, Kroening discloses the method of claim 32, where a building block

comprises one or more of, a file, a program, an application, an object, a dynamic link library, a

data structure definition, a data structure, a file system definition (col. 1:45-55 "... file server

which requires ..."), a file system, an applet, a servlet, a subroutine, a database record, and a

database (col. 7:50-55 "... program code ..." and e.g. FIG. 1, IMAGE SERVER and related

text).

Per claim 34, Kroening disclose the method of claim 32, where an attribute is configured

to store information concerning one or more of, an operating system associated with a building

block, an operating system version associated with a building block , a spoken language

associated with a building block (col. 7:45-60 "... operating system and application's program

code ..."), a computer language associated with a building block (e.g. FIG. 2, steps 204-224 –

Note: the Image Builder starts with the top record and analyzes configuration identification and

e.g. FIG. 3 and related text), a geographic region in which a building block may function, a

device identifier for a device with which a building block may function, a release data

associated with a building block, an architecture with which a building block may function (col.

8:5-15 "... image identification is a tree structure with configuration identification number ..."

and e.g. FIG. 2, 208-212 and related text and e.g. FIG. 4 and related text), a build list, an

interaction between two or more building blocks, a desired interaction between two or more

building blocks, and a dependency between two or more building blocks (col. 7:50-55 "...

program code ..." and col. 8:15-25 "... files corresponding to the operating system ..." and e.g.

FIG. 1, IMAGE SERVER and related text).

Per claim 35, Kroening discloses the method of claim 32, where a rule describes one or

more of, how a building block is to be selected for inclusion in a restore distribution, how to

combine two or more building blocks (col. 2:1-15 "… baseline is identified … image builder

performs comparison to create a set of changes that can be combined …"), how to connect two

or more building blocks, when a building block is to be processed at restore distribution build

time, how a building block is to be processed at restore distribution build time, when a building

block is to be processed at restore time, and how a building block is to be processed at restore

time (col.8: 45-50 "… configurations and selecting a base line software …").

Per claim 36, Kroening discloses the method of claim 32, where a constraint describes

one or more of, how to limit the scope of a restore distribution, and when to exclude a building

block from a restore distribution (col. 2:20-30 "… include receiving desired software …").

Per claim 37, Kroening discloses the method of claim 32, where the superset is stored in a

database (col.8: 45-50 "… configurations and selecting a base line software …" and e.g. FIG. 1,

element 56 and related text).

Per claim 38, Kroening discloses the method of claim 32, including receiving, from the

computer-readable media creator, a tracking data concerning storing the restore distribution on

the computer-readable medium, and storing the tracking data (col. 2:1-10 "… identify a match

for desired configuration …").

Per claim 39, Kroening discloses a system, comprising:

means for acquiring a restore distribution content and computer executable instructions

for manipulating the restore distribution content (e.g. FIG. 2, steps 204-224 – Note: the Image

Builder starts with the top record and analyzes configuration identification), where a restore

distribution can be built from the restore distribution content by executing the instructions (e.g.

FIG. 1, element 30 and related text);

means for building the restore distribution from the restore distribution content by

executing the instructions (e.g. FIG. 1, element 20 and related text); and

means for storing the restore distribution on a computer-readable medium (col. 7:45-50

"… floppy disk, CD, zip drive …").

Per claim 40, Kroening discloses in a computer system having a graphical user interface

comprising a display and a selection device (col.6:1-10 "… display of information for viewing

…"), a method of providing and selecting from a set

of data entries on the display, the method comprising:

retrieving a set of data entries, where a data entry represents a restore distribution build

operation (e.g. FIG. 2, steps 204-224 – Note: the Image Builder starts with the top record and

analyzes configuration identification and e.g. FIG. 2, 204 and related text);

displaying the set of data entries on the display (col.6:1-10 "… display of information for

viewing …");

receiving a data entry selection signal indicative of the selection device selecting a

selected data entry (col. 4:5-15 "… process involves entering a customer's order into an order

entry ..." and col. 6:5-20 "... permits entry of textual information ..." and e.g. FIG. 2, 208-212

and related text); and in response to the data entry selection signal, initiating a restore

distribution build operation associated with the selected data entry (col. 4:45-55 "... receiving

the bill of materials which provides information for creating or building an image ..." and e.g.

FIG. 2, 224 and related text).

Per claim 41, Kroening discloses a computer-readable medium having stored thereon a

data structure (col. 2:15-25 "... computer readable medium ...") comprising:

a first field containing a building block that may be included in a restore distribution

(col.6:1-10 "... display of information for viewing ...");

a second field containing attribute data concerning the building block (col. 8:5-15 "...

image identification is a tree structure with configuration identification number ..." and e.g.

FIG. 2, 208-212 and related text); and

a third field containing a rule concerning whether to include the building block in the

restore distribution (col. 9: 15-30 "... instructions executed ... for receiving a desired software

configuration ... surveying ... comparing ... generating ..." and e.g. FIG. 2, step 212 and

related text), how to process the building block into the restore distribution, and how to process

the building block out of the restore distribution into a software image (col. 2:1-15 "... baseline

is identified ... image builder performs comparison to create a set of changes that can be

combined ..." and e.g. FIG. 2, step 212 and related text).

Per claim 42, Kroening discloses a set of application programming interfaces embodied on a computer-readable medium for execution by a logic in conjunction with building a restore distribution, comprising: a first interface for communicating a building block that may be included in the restore distribution (col. 4:40-50 "... image builder ... via interface ... for receiving the bill of material which provides pertinent information ...." e.g. FIG. 1, element 17 and related text); a second interface for communicating an attribute data concerning the building block (col. 6:15-25 "... defines an image and assigns a corresponding configuration number ... surveyed to find desired configuration ..." and e.g. FIG. 1, element 28 and related text); and a third interface for communicating a rule concerning one or more of, how to process a building block into a restore distribution, and how to process a building block out of a restore distribution into a software image on a target platform (col. 6: 35-45 "... allows the hard drive to be configured with an image of the desired software configuration before installation ..." and e.g. FIG. 1, element 32).

Conclusion

4.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISAAC T. TECKLU whose telephone number is (571)272-7957. The examiner can normally be reached on M-TH 9:300A - 8:00P.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Isaac T Tecklu/
Examiner, Art Unit 2192

/Tuan Q. Dam/
Supervisory Patent Examiner, Art Unit 2192